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A REVIEW OF STATE AGENCIES IMPACTING REGIONAL WATER QUALITY MANAGEMENT

Miami Valley Regional Planning Commission

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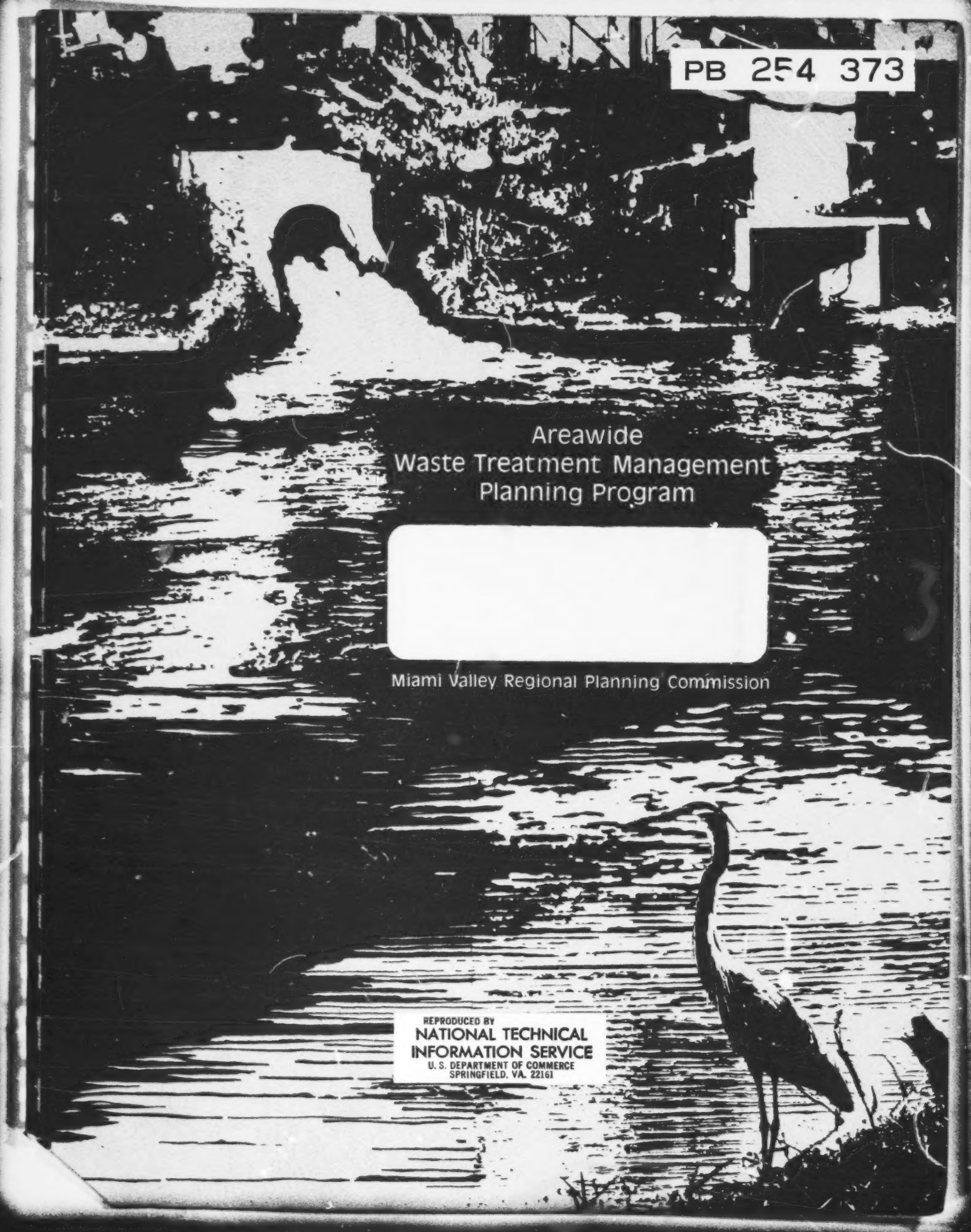
March 1976



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Areawide Waste Treatment Management Planning Program

Miami Valley Regional Planning Commission

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Ten state level agencies in Ohio which have programs relating to land use, wastewater management, water supply, flood plain management, nonpoint source pollution, solid waste and transportation are identified. Each description includes the agency's geographic jurisdiction, basis of authority, areawide water quality related functions, operational constraints, and relationships with other local, state, and federal water resource agencies. Each agency's role in either financing, regulating, operating and maintaining, administering, planning, or providing technical assistance to water quality programs is explained. The information is presented in narrative outline form for use in the Section 208 (PL 92-500) Areawide Waste Treatment Management Plan.

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A REVIEW OF STATE AGENCIES IMPACTING REGIONAL WATER QUALITY MANAGEMENT

M 2

March, 1976

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This report was prepared for the Miami Valley Regional Planning Commission by Linton and Company, Incorporated, Washington, D.C. in partial completion of the Management Planning Component of the 208 Areawide Water Quality Management Plan.

Approved by the Water Resources Committee
on February 24, 1976

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PREFACE

This report, A Review of State Agencies Impacting Regional Water Quality Management, is one of a series of eight reports which together provide background information necessary for the development of the management component of the Section 208 Areawide Water Quality Management Plan and program being developed by the Miami Valley Regional Planning Commission (MVRPC).

In June, 1974, the MVRPC received a two-year grant from the United States Environmental Protection Agency (USEPA) for the purpose of preparing an areawide water quality management plan for the five county region - Darke, Greene, Miami, Montgomery and Preble Counties - as specified under Section 208 of the Federal Water Pollution Control Act Amendments of 1972. In February, 1975, the MVRPC retained the services of Linton and Company, Incorporated to assist in the development of the management component of that plan. Since that time the respective staffs have worked to develop an informational background needed to determine the management alternatives which will fit the technical alternatives selected toward solutions of present and potential water quality problems.

The reader will find that one report may reference one or more reports in this series. Because each report is quite detailed it was felt that referencing another report rather than recapitulating its contents was the easiest course. The other seven reports in this series are:

Experience and Potential for Regional Water Quality Management

Financial Critical Factors Analysis

Legal Critical Factors Analysis

A Review of Local Agencies Impacting Regional Water Quality Management

A Review of Regional Agencies Impacting Regional Water Quality Management

A Review of Federal Programs Impacting Regional Water Quality Management

A Review of Critical Factors Impacting Regional Water Quality Management

INTRODUCTION

The state agencies reviewed herein have been selected on the basis of both existing and potential impact on water quality management in the region. The extent to which the programs of each agency may impact on the region differs, but each of these programs provides opportunities and/or presents constraints which affect the implementation of potential alternative management plans. Management activities encompassed by these agencies and the program which they administer include financing, regulation, operation and maintenance, administration, planning and provision of technical assistance.

The information gathered through this review will provide important input into the management alternatives formulation phase of the study. Any proposed management alternative will, of necessity, have to be integrated into the existing institutional framework, from the local point of view as well as from regional, state and federal points of view. This review of state agencies is one element of that input.

Information on state agencies was gathered through a combination of personal interviews with agency staff as well as reviews of agency publications and annual reports.

The 1975 dates of the state agency interviews were as follows:

- Ohio Environmental Protection Agency -- July 9
- Ohio Department of Natural Resources -- June 19, July 10
- Soil and Water Conservation Commission -- June 19, July 10
- Ohio Water Development Authority -- June 19, July 10
- Ohio Department of Health -- July 9
- Department of Economic and Community Development -- June 19

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- Ohio Power Siting Commission -- July 10
- Division of Plant Industry, Ohio Department of Agriculture -- July 9
- Ohio District of the Soil Conservation Service, U.S. Department of Agriculture -- July 10
- Ohio Office of the Farmers Home Administration, U.S. Department of Agriculture -- July 10

With regard to information gathered on the Soil and Water Conservation Districts (SWCD), covered in the section on the Ohio Soil and Water Conservation Commission, supplementary information on the operation of a SWCD in the region was gathered through an interview with the Montgomery County SWCD on July 24, 1975. Further, based on the results of the November 5, 1975, State Bond Issue referendum, information concerning a proposed cost-sharing program of the Soil and Water Conservation Commission was updated. Information on plumbing inspection responsibilities was gathered through a phone interview with the Ohio Department of Health staff; and information on state level sludge disposal-related activities, through a phone interview with Ohio Environmental Protection Agency staff. Since the time of these interviews, certain divisions and functions have been shifted within and among several agencies. Therefore, while certain arrangements discussed herein were operational at the time of the interview, they may be changed or rearranged at this time.

The Role of Ohio State Agencies in Water Quality Management

The primary roles of state agencies in relation to areawide water quality management are in the areas of planning, research monitoring, regulation and funding.

Land Use

In the field of land use, state agencies function in a funding and technical assistance capacity. The U.S. Department of Housing and Urban Development (HUD) "701" comprehensive planning funds are allocated to the Ohio Office of Budget and Management (OBM). OBM, in turn, allocates about 75 percent of the funds to the Department of Economic and Community Development (DECD) which then distributes "701" grants to regional and local planning agencies based on criteria which includes the furtherance of intergovernmental relations on the part of communities and the ability to build on existing comprehensive plans. Of the remaining "701" funds, small portions are allocated to the Ohio Department of Natural Resources (ODNR) and the Ohio Department of Transportation (ODOT) for comprehensive planning activities and to the Governor's Office for intergovernmental relations programs. The remainder is kept by OBM to meet "701"-related administrative expenses.

The DECD also offers land use technical assistance to regional planning commissions and local commissions and jurisdictions. It can provide localities as well as other state agencies with demographic, economic, environmental and growth allocation information which it generates from in-house computerized planning information systems.

Water Quality

The Ohio Environmental Protection Agency (OEPA) has broad responsibilities in the area of water quality. Section 6111.03 of the Ohio Revised Code (ORC) mandates that OEPA develop plans and programs for the prevention, control and abatement of pollution in state waters and conduct studies and research relating to water pollution. Toward this end, OEPA reviews and issues discharge permits, monitors wastewater and water supply facilities, enforces water quality standards, distributes federal wastewater facilities grants and engages in water quality studies including 303 (e) basin planning studies.

Although OEPA has primary responsibility for enforcing water quality standards, the Ohio Department of Health plays a minor role by enforcing standards for water supply facilities used for public consumption as well as for septic tanks and sewage facilities serving public areas, such as schools and parks.

Wastewater Management

The OEPA plays a major role in wastewater management both in the area of promulgating and enforcing facilities and discharge standards and in certifying applications for Region V, USEPA. OEPA can issue or deny permits for the discharge of municipal and industrial wastes and any other wastes flowing into state waters. In addition, OEPA determines priorities among municipalities for the granting of federal monies for the construction of wastewater treatment plants.

The Ohio Department of Health has a secondary role in wastewater management. It has promulgated regulations covering septic tanks serving one to three family dwellings and sewage systems serving public areas. It encourages local health departments and districts to enforce these regulations.

The Ohio Water Development Authority (OWDA) functions as a major source of funds for wastewater treatment facilities. OWDA floats bonds to finance both municipal and industrial wastewater facilities. Those municipalities borrowing money from OWDA repay the principal and a small financing charge from revenues generated from the facilities. Industries repay the principal and financing charge over a period of years.

Water Supply

The OEPA's Office of Public Water Supply plays the principal state role in overseeing the state's water supply. Under the authority of Chapter 6111 of the ORC it administers guidelines for the siting of wells, proper treatmen of raw water and development of distribution systems. OEPA may assume additional responsibility if it chooses to administer the Federal Safe Drinking Water Act (PL. 93-523) for the state of Ohio. If it assumes primary responsibility for implementation and enforcement of standards promulgated under this legislation, however, it will require additional funding and staffing, which it may not, at this time, be ready to commit.

Flood Plain Management

The Flood Plain Management Section of the ODNR has been involved in the development of criteria for the regulation of flood plains and has worked to encourage local governments to become eligible for flood insurance. In addition, the Section reviews sewage treatment facilities plans to ensure that waste treatment plants are not constructed in such a way as to become a flood hazard.

The Soil and Water Conservation Commission, acting through the Soil and Water Conservation Districts, plans, constructs, operates and maintains improvement works to prevent and control floods.

Nonpoint Pollution Control

The principal state agency taking a role in nonpoint source pollution control is the Soil and Water Conservation Commission. This role could become extremely important if rural and urban pollution control regulations proposed by the Commission are acted upon favorably by the Ohio General Assembly. The regulations in agricultural areas would seek to control sediment pollution caused by accelerated erosion and animal waste pollution. The Commission, acting through the Districts, would recommend methods by which landowners could meet the regulations. A proposed urban sediment control program would include regulation of accelerated water erosion of land used or being developed for commercial, industrial, or residential purposes; for highways, streets, airports, railroads, utilities or other related purposes; and for private or public recreation, wildlife or natural purposes. It is expected that administration and enforcement of such a program would be the responsibility of municipal corporations, counties and townships.

Solid Waste

The OEPA plays the principal role on the state level for the control of solid waste as it relates to water quality. The agency is responsible for adopting regulations and issuing permits and licenses governing solid waste disposal sites and facilities in order to assure that such sites and facilities will not contribute to water pollution.

Transportation

The Ohio Department of Transportation (ODOT) oversees those aspects of highway construction which impact on water

quality, principally sediment erosion control. Guidelines for sediment control are promulgated in ODOT's Construction and Materials Sepcifications. These guidelines must be followed in the construction of state highways and in the construction of any local highways where federal funds are used.

OHIO ENVIRONMENTAL PROTECTION AGENCY

I. GEOGRAPHICAL JURISDICTION

State of Ohio

II. BASIS OF AUTHORITY

The Ohio Environmental Protection Agency (OEPA) derives its authority from the Ohio Revised Code (ORC), Sections 3745.01 through 3745.09. Section 3745.01 states that:

> The agency shall, under the supervision of the director, administer the laws and regulations pertaining to the prevention, control, and abatement of air and water pollution, public water supply, comprehensive water resource management planning, and the disposal and treatment of solid wastes, sewage, industrial waste, and other wastes.

III. AREAWIDE WATER QUALITY RELATED FUNCTIONS

A. General Functions

Under the Ohio Water Pollution Control Act, specifically ORC, Section 6111.03, OEPA is given the following water resources responsibilities:

> (1) Develop plans and programs for the prevention, control, and abatement of new or existing pollution of the waters of the state;
>
> (2) Administer grants from the federal government and from other sources, public or private, for carrying out any of its functions, all such moneys to be deposited in the state treasury, and kept by the treasurer of state in a separate fund subject to the lawful orders of the director;
>
> (3) Administer state grants for the construction of sewage and waste collection and treatment works;
>
> (4) Encourage, participate in, or conduct studies, investigations, research and demonstrations relating to water pollution, and the causes, prevention, control and abatement thereof, as is advisable and necessary for the

discharge of its duties;

(5) Collect and disseminate information relating to water pollution and prevention, control, and abatement thereof;

(6) Adopt, modify and repeal regulations governing the procedure for hearings, filing of reports, the issuance of permits, the issuance of industrial water pollution control certificates and all other matters relating to procedure;

(7) Issue, modify, or revoke orders to prevent, control, or abate water pollution: (a) prohibiting or abating discharges of sewage, industrial waste, or other wastes into the waters of the state; (b) requiring the construction of new disposal systems or any parts thereof, or the modification, extension, or alteration of existing disposal systems or any parts thereof; (c) prohibiting additional connections to or extensions of a sewage system when such connections or extensions would result in an increase in the polluting properties of the effluent from such system when discharges into any waters of the state; (d) requiring compliance with any standard or regulation adopted under Section 6111.041 or 6111.042 of the Revised Code, or term or condition of a permit.

(8) Review plans, specifications or other data relative to disposal systems or any part thereof in connection with the issuance of orders, permits and industrial water pollution control certificates.

(9) Issue, revoke, modify or deny permits for the discharge of sewage, industrial waste, or other wastes into the waters of the state, and for the installation or modification of disposal systems or any parts thereof in compliance with all requirements of the "Federal Water Pollution Control Act Amendments of 1972", 86 Stat. 816.33 USCA 1251 and mandatory regulations adopted thereunder, and set terms and conditions of permits, including schedules of compliance, where necessary.

(10) Issue, revoke, deny or modify industrial water pollution control certificates.

B. Specific 208-Related Sections

The six functional offices of OEPA all have the potential for making substantive inputs into the 208 planning process. These include the Office of Wastewater Pollution Control, the Office of Public Water Supply, the Office of Land Pollution Control, the Office of Air Pollution Control, the Office of Operational Support and the Office of District Operations. Certain adjuncts to the Director's Office couls also play a role in 208 planning, including the Office of Planning Coordinator and the Public Interest Center and Environmental Legislative Liaison. However, three sections have immediate relevance to areawide water quality planning: the Office of the Planning Coordinator within the Director's Office, the Construction Grants Section of the Division of Public Wastewater of the Office of Wastewater Pollution Control, and the Office of Land Pollution Control. The Office of the Planning Coordinator has assigned one coordinating planner to each 208 agency designated within the State of Ohio. These planners provide technical assistance to the individual agencies and also perform a monitoring and review function. The planners make quarterly reports to OEPA so that the State can monitor 208 agency functions to see that agency efforts are not duplicated and are coordinated where possible. Since OEPA recommends action to the Governor who then certifies the final 208 plans, the continual monitoring process ensures compliance with federal and state regulations early in the planning stages.

In addition the Office of the Environmental Planning Coordinator oversees the state's 303(e) basin planning. In formulating the 303(e) plans OEPA coordinates with the U.S. Soil Conservation Service, the U.S. Geological Survey and the Ohio Department of Natural Resources in gathering water quality, hydrological and soils data.

The Construction Grants Section of the Division of Public Wastewater is responsible for certifying applications for federal money for Section 201 waste treatment facilities grants to municipalities. A priority list for grant allocation is determined each year on the basis of severity of pollution from municipalities and industry, the population affected, the need to preserve high quality waters, and finally, national priorities.

The USEPA provides 75 percent of the funding for qualifying municipalities, while the municipalities must fund the remaining 25 percent. The local share can come from three basic sources: municipal revenues or bonds; bonds floated for municipalities by the Ohio Water Development Authority; or low interest loans from the Farmers Home Administration, available to rural communities which have completed the planning and design phase of Section 201 and qualify for the actual construction grant.

The Office of Land Pollution Control shares responsibility for sludge disposal with the Office of Wastewater Pollution Control. The OEPA has not established a standard policy position on the accepted disposal practices but treats the approval of each sludge disposal procedure on an ad hoc basis. At the present time, OEPA is conducting several demonstration projects in the northwest and southwest sections of the state on land disposal of sludge.

The OEPA has determined that responsibility for land application of sludges will be handled by the Office of Wastewater, and that for pure land application, plans will have to be reviewed and approved, and National Pollution Discharge Elimination System (NPDES) permits issued. In situations where landfills are used, responsibility will lie with the Office of Land Pollution Control. In this case, the Office of Land Pollution Control, which licenses solid waste disposal facilities, will issue a permit and/or license for the disposal of sludge. At the present time, there is no clear policy; the Office can either permit or refuse to permit a facility.

However, under proposed regulations issued recently, the policy concerning a requirement for a solid waste permit if landfills are used for sludge disposal would be reaffirmed.

At the local level, health departments or districts act to enforce OEPA solid waste regulations and permits. If land application is used, the regulatory function is the responsibility of the OEPA district offices.

IV. SIGNIFICANT DIFFERENCES BETWEEN STATUTORY AUTHORITIES AND ACTUAL OPERATING RESPONSIBILITIES

No apparent differences.

V. MAJOR LEGAL AND ADMINISTRATIVE CONSTRAINTS ON FINANCING AND STAFFING

Under the new state budget passed by the Ohio General Assembly for Fiscal Year (FY) '76, OEPA funding will be cut back. The budget cuts, however, will not affect water quality programs such as 208 coordination, according to OEPA staff.

VI. RELATIONSHIPS WITH OTHER RESOURCE ORGANIZATIONS

The OEPA's primary contact with local jurisdictions in the area of water quality is through its allocation of Section 201 facilities grants.

Contact with regional agencies began with the designation of planning coordinators to work on the staff of the 208 agencies, including MVRPC. In addition, the potential exists for regional agencies such as MVRPC and the Miami Conservancy District (MCD) to exchange information with OEPA that might be of use in a technical study. MVRPC may have land use data, for example, that may be important to OEPA's development of 303(e) basin plans. Information gathered from the basin plans may, in turn, become useful to areawide 208 agencies in the formulation of water quality objectives.

At the state level, OEPA has informal contact with the Ohio Department of Natural Resources (ODNR). ODNR provides technical assistance in the preparation of 303(e) basin plans and reviews OEPA municipal waste treatment applications prior to construction to alleviate environmental damage arising from flood hazards.

The Soil Conservation Service and the U.S. Geological Survey provide technical assistance to OEPA in the formulation of 303(e) basin plans.

OHIO DEPARTMENT OF NATURAL RESOURCES

I. GEOGRAPHICAL JURISDICTION

State of Ohio

II. BASIS OF AUTHORITY

The ODNR functions most pertinent to the 208 planning effort are those involving flood plain management activities and water planning. The operations of each of these activities is authorized under the general authorities contained in ORC Chapter 1501. Although the flood plain management responsibilities of ODNR are also authorized under Section 1521.14 of the ORC, a December 21, 1971, announcement by former Governor Gilligan reiterated the Department's responsibilities in the area and stated that the Department's authorized review responsibilities would be carried out in accordance with the criteria established in ODNR's Minimum Criteria for the Regulation of Ohio Flood Plains.

III. AREAWIDE WATER QUALITY-RELATED FUNCTIONS

A. Division of Water

The Water Planning Section of the Division of Water has the authority under Chapter 1501 to inventory and manage water supplies throughout the State. At the present time, ODNR is not involved in water supply management in the Miami Valley region.

Over the past several years, the functions of the Section have changed due to: (1) the creation of the Ohio Environmental Protection Agency; and (2) intradepartmental reorganization. At one time, the Water Planning Section, within ODNR's Office of Planning Research, and later as a component of the Department's Division of Planning, was responsible for preparing regional and statewide water plans. These plans considered public water supply sources, water quality management techniques, flood damage prevention techniques; and inventoried water needs for recreational, industrial and esthetic purposes. The Division of Water was also responsible for determining the possible effects of waste disposal operations on groundwater quality. Discussions with ODNR staff

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indicated that while the regional water plans addressed problems such as those, they did not treat nonpoint source pollution, waste load allocations or urban stormwater runoff. In the case of the Southwest Ohio Regional Water Development Plan, which included the Miami Valley region, the subject of flood damage prevention was not treated primarily because the work of the Miami Conservancy District has minimized the problem in the region.

The implementation of the Southwest Ohio Regional Water Development Plan was envisioned to be the responsibility of various institutional entities. For example, the Corps of Engineers would be responsible for flow augmentation; the state, for enforcement of water quality standards; municipalities, for water supply systems; and local units of government and the Soil Conservation Service (SCS) for flood control projects.

Legislation pending before the Ohio General Assembly would again assign responsibility for the development and maintenance of regional water plans to ODNR. Under this legislation, ODNR would only be responsibile for that portion of the plan relating to water supply. The legislation (designed to diffuse water resource management authority between ODNR and OEPA) does create problems in the assignment of water related responsibilities between the two agencies. Essentially though, OEPA is responsible for water quality planning and enforcement, and ODNR for water inventory planning and management. "Gray" areas are assigned by agreement between the two agencies; in some cases, the assignment of a function is determined by the agency in which an expert on the subject is currently located.

At the present time, the Division of Water is undertaking or proposing to undertake the following projects:

-Reactivation of water planning studies in central and southeast Ohio

-Publication of the plan prepared for southwest Ohio

-Coordination of work on several watershed projects funded under the Watershed Protection and Flood Prevention Act (PL 83-566).

The only watershed project in the Miami Valley region is one under construction on the Whitewater River near New Paris in Preble County. The project will include channel improvement and development of a reservoir for flood control and recreation purposes. Funding for the recreation portion will include federal assistance under the Land and Water Conservation Fund.

-Study of Indian Lake (headwaters of the Great Miami) water management to explore ways in which to reduce the effect of the release of algae-laden water on downstream communities' water intake. The problem of algae-laden water, which results in bad tasting and smelling water, affects the communities of Troy and Piqua in Miami County.

-Coordination of work with the Soil Conservation Service on a U.S. Department of Agriculture (USDA) Type IV River Basin Study for the Mill Creek and the Great and Little Miami Rivers. This study is to be completed by December 31, 1976. Regional planning agencies in these river basins have been asked to participate and share information being gathered under their 208 Wastewater Management Programs.

B. Flood Plain Management Section

The Flood Plain Management Section was within the Division of Planning in the "old" organization but now is a section of a newly expanded Division of Water. It has been involved in the development of criteria for the regulation of flood plains, and has worked with local governments to assist them in becoming eligible for federally subsidized flood insurance. Other related responsibilities include acting as state coordinating agency for the Flood Insurance Agency (FIA) and information source for both federal and local agencies involved in flood plain management activities within Ohio.

According to the Flood Plain Management Section staff interviewed, the interface between the Flood Plain Management Section and Section 201 facilities plans and, in the future, 208 plans will involve

commenting on the location of facilities, particularly if those locations are within flood plain areas. In addition, the section will assist in the facility planning efforts by providing pertinent data.

IV. SIGNIFICANT DIFFERENCES BETWEEN LEGAL AUTHORITY AND ACTUAL OPERATING RESPONSIBILITIES

No apparent differences.

V. MAJOR LEGAL AND ADMINISTRATIVE CONSTRAINTS ON FINANCING AND STAFFING

The ODNR has suffered major cuts in its budget for the new biennium. This may impact on 208 agencies relying on assistance from ODNR in providing data for the preparation of land use plans.

VI. RELATIONSHIPS WITH OTHER WATER RESOURCE ORGANIZATIONS

A. Division of Water

(1) Local. Local units of government use water plans prepared by the Division. For example, local governments would use state recommendations for future water supply sources and flood damage prevention information in the preparation of requests for assistance from the Soil Conservation Service (SCS) under P.L. 83-566.

The ODNR has the responsibility for reviewing the local applications for assistance in watershed protection projects before they are approved by SCS.

(2) Regional Agencies. Regional agencies such as MCD or MVRPC use data and information generated in ODNR studies. For example, MCD would use flow augmentation schedules prepared by the Department. The Regional Planning and Development Organizations (RPDO) would use stream corridor delineations in land use plans. Relationships with MCD are informal and appear to be based on a mutual respect between state and MCD staffs. ODNR staff considers MCD to be an effective and successful mechanism for managing water resources.

(3) State. State agencies with which ODNR has relationships include OEPA and ODOT. The

relationship between OEPA and ODNR is primarily informal and has been discussed in terms of each agency's responsibility in the area of water planning. The relationship between ODNR and ODOT is formal; ODNR approves highway projects affecting designated scenic rivers under authority granted the agency in Section 1501.17 of the ORC.

(4) Federal Agencies

a. Corps of Engineers. The ODNR is the designated liaison contact agency within Ohio for all Corps projects. Liaison responsibilities include sign-off for the Corps under Section 404 of the Federal Water Pollution Control Act Amendments (FWPCAA) which requires the issuance of permits for those dredge-and-fill projects regulated by the Corps. Other relationships include ODNR involvement in Corps reservoir projects. For example, near the Miami Valley region, ODNR and the Corps are working together in determining flow augmentation operating schedules of the C.J. Brown Reservoir Project. ODNR has veto power over all structural solutions proposed by the Corps to deal with flood control damage and problem areas. In general, the role of the Corps has been characterized as one in which it acts as "consultant" to the state on flood programs and structures.

b. Soil Conservation Service (SCS). As previously mentioned, ODNR approves application for assistance under P.L. 83-566 before funding is approved by SCS. Also, the ODNR provides a state coordinator for USDA Type IV River Basin study.

c. Farmers Home Administration (FmHA). The ODNR supplies FmHA with water inventory data which is used as a basis for approving rural water supply funding.

d. U.S. Geological Survey (USGS). The state and USGS work together in inventorying the natural resources and delineating flood prone and "occasionally flooded" areas of the state.

B. Flood Plain Management Section

(1) Local Units of Government. As previously mentioned, the Flood Plain Management Section works with local agencies include review and comment on the site analysis component of 201 facilities plans.

(2) Regional Agencies. The Section has worked with regional agencies as part of the flood plain management program. For example, they worked with the MVRPC in informing local units of government on federal requirements for participation in the FIA flood insurance program.

(3) State Agencies. Again, the OEPA uses ODNR to review facilities plans for conformance with flood plain management practices.

(4) Federal Agencies.

a. Corps of Engineers. The Flood Plain Management Section's involvement with the Corps consists primarily of cooperative efforts to develop flood plain information reports.

b. Flood Insurance Administration (FIA). The Section, acting for ODNR, is the State coordinator for the Flood Insurance Administration.

c. U.S. Geological Survey (USGS). The Section uses USGS materials in the preparation of flood plain information studies.

SOIL AND WATER CONSERVATION COMMISSION

I. GEOGRAPHIC JURISDICTION

State of Ohio

II. BASIS OF AUTHORITY

The Soil and Water Conservation Commission was formed pursuant to State legislation enacted in 1941. That legislation, House Bill 646, provided for the formation of the Commission and set forth its responsibilities. The primary mission of the Commission in the early years of its existence was to encourage the formation of local soil and water conservation districts (SWCD), and assist the districts in working with individual landowners to adopt land management and conservation practices.

A number of amendments have been enacted since the original legislation was passed. Major legislative actions have included:

-the granting of authority to Boards of County Commissioners to appropriate funds to local soil and water conservation districts.

-provision for "local organizations" under the Federal Watershed Protection and Flood Prevention Act (P.L. 83-566).

-Legislation (S.B. 160), enacted in 1969, creating, within the Department of Natural Resources, a Division of Soil and Water Districts, which acts as a staff to the State Commission, and as the Commission's agent in providing assistance to local districts. This same legislation provided the soil and water conservation districts with the authority to carry out water management projects and established state grant programs to assist the Districts in undertaking these projects.

-Legislation enacted in 1972 assigned the Division the responsibility to develop and recommend agricultural pollution and urban sediment control regulations.

-Proposed legislation would enable the Division to implement and enforce the above regulations (see Section III for discussion of these regulations).

III. AREAWIDE WATER QUALITY-RELATED FUNCTIONS

The present and proposed activities of the local districts as authorized by Section 1515 of the Ohio Revised Code bear directly on the ability of the 208 management plan to consider and make provision for meeting the requirements of Section 208(c) and other sections of the FWPCAA relating to regulating nonpoint source pollution.

The districts are empowered under Chapter 1515 to conduct research, develop plans, and construct, operate and maintain improvement works to conserve natural resources, prevent and control floods, and dispose of water from public and private lands. These authorities have provided the basis for involvement by the local districts in agricultural and urban sediment pollution abatement programs. Up to the present, the programs have been primarily concerned with agricultural resource conservation, and have been voluntary. Recent changes to the enabling legislation authorized the Division of Water and Soil Districts to develop regulations to control agricultural and urban sedimentation. Under the proposed legislation, the districts, and in some cases the Division, would be authorized to implement and enforce the implementation of the regulations.

IV. PRESENT AND FUTURE WATER RESOURCE PLANS AND PROGRAMS

The proposed rural and urban pollution control regulations are relevant to the 208 planning process and the future implementation of a management plan.

A. Agricultural Pollution Abatement Program

Briefly, the regulations in agricultural areas would seek to control sediment pollution caused by accelerated erosion and animal waste pollution.

The standards and regulations adopted by the Soil and Water Commission would deal with pollution from areas used for agricultural production or "closely associated with and operated in conjunction with areas used for agricultural production." Such areas would include, for example, woodlands ("...except those areas under the jurisdiction or urban or metropolitan government"); building lots used or being constructed for use by the

the farm; ditches and streams in agricultural areas under maintenance or undergoing reconstruction by a local group; surface mining or surface mined areas (other than coal) operated in conjunction with land used for agricultural production.

The recommended methods to meet the standards established by the Commission would be implemented by landowners with the assistance of the local districts.

In cases in which regulations were violated, and the violating party refused to cooperate with representatives of the district, the Division of Soil and Water Districts would have the authority to refer such violations to the Ohio Attorney General for prosecution. The hope is that the success of districts in the past in working with rural landowners would preclude the necessity of extensive enforcement and prosecution activities.

An important component of the agricultural pollution abatement program is the cost-share provision. Under the provision, the Division will pay 75 percent of the nonfederal portion of the costs of certain sediment pollution control practices. These "eligible" practices are, critical area stabilization, diversions, field windbreaks, grade stabilization structures, grassed waterways and outlets, and terraces. The practices must meet certain conditions specified in the program regulations, however, before they will be funded.

Funding for the State share of the project costs was an item in the Governor's proposed $5 billion bond issue, defeated in a statewide referendum on November 5, 1975.

B. Urban Sediment Pollution Abatement Program

As proposed, the Urban Sediment Control Program would include regulation of accelerated water erosion of land used or being developed in either urban or rural areas for commercial, industrial or residential purposes; land being used or developed for streets, roads, highways, airports, railroads, utilities or other related purposes; and land used or being developed for private or public recreation, wildlife, or natural purposes

It is expected that the Urban Program would be administered by municipal corporations, counties and townships which have adopted sediment control regulations approved by the Division; or by local districts and/or the Division of Soil and Water Districts. Enforcement of the Urban Program would be the responsibility of the local unit of government if it has enacted sediment control ordinances which have been approved by the Division. In those cases in which a municipal corporation, county, or township does not adopt sediment control ordinances, the district supervisors shall be responsible for administering the program if they have entered into an agreement to do so with the ODNR. Where local districts have not entered into such an agreement or where the district is not properly administering the regulations, the Division of Soil and Water Districts would administer the program. Whenever the regulations are not being met, the Division has the authority to enforce the regulations by referring the case to the Ohio Attorney General for prosecution.

The program procedures state that if local sediment control regulations have not been adopted, State regulations require that a proposed development area involving less than five acres be subject to surveillance and site investigation by the district. In those cases in which the development area is greater than five acres, that "responsible person" shall develop and obtain approval of a sediment control plan prior to any "earth disturbing activity." Under the Urban Program, "...(a) statement of policies for sediment control in conjunction with standards type operations such as highway construction or maintenance..." may be approved by the agency administering the program.

Program administration would be carried out by a field staff funded by a budget request of $2 million for FY 1976. The field staff would work with local districts to review sediment control plans, periodically review regulatory measures and the administration of municipal, county and township programs for compliance with State standards, and assist local governments in the administration of programs.

V. SIGNIFICANT DIFFERENCES BETWEEN STATUTORY AUTHORITY AND ACTUAL OPERATING RESPONSIBILITIES

None noted or observed.

VI. MAJOR LEGAL AND ADMINISTRATIVE CONSTRAINTS ON FINANCING AND STAFFING

The implementation of both the urban and rural programs will depend on the Division receiving the budget request, and on approval by the voters of the State's bond issue. The $2 million requested for administration of the programs in FY 1976 was not included in the budget passed by the Ohio General Assembly; however, the Division hopes the funds will be included in a supplementary appropriation once the legislation authorizing implementation of the program is passed. The $3 million requested to have been the cost-sharing provision of the agricultural program was included in the $5 billion state bond issue. However, authority for such a bond issue was defeated in a statewide referendum in November, 1975. The unavailability of these cost sharing funds will affect the implementation of the sediment pollution control program.

In addition to the funding constraints on the program, the success of the program will depend on the capability of local districts and units of local government to implement and enforce regulations.

As noted previously, the conservation and sediment control programs administered by the districts have been voluntary. If the legislation authorizing the districts and the Division to enforce sediment control ordinances is enacted, the role of the districts will shift from passive (in the sense that the district did not have monitoring and enforcement authority) to active. This shift in the manner in which the districts carry out their functions will increase their workload considerably, according to the Montgomery County SCS agent, if the district is to ensure compliance with the regulations. It is expected that the district field staff of three (two SCS employees and one district employee) will enforce the agricultural sedimentation regulations, as complaints are received from the rural areas of the County. The Universal Soil Loss Equation will be used to monitor the extent of sedimentation. Regulation will be carried out by monitoring the adoption of recommended management practices which were explained earlier.

While it is difficult at this time to speculate on the staffing and consequent funding needs of the

districts to carry out the proposed agricultural and urban programs, without the appropriation requested by the Division to assist districts in implementing the program, the capability of the districts in this area will be limited.

There is another potential constraint on the capabilities of the districts to implement the two proposed programs, and that is the constraint caused by the long history of cooperation between the districts and farmers and other landowners. State and district staff have emphasized that a long history of staff and landowners working together will make the programs work; and yet, the same supposition might prevent the program from working as quickly or as thoroughly as might be hoped. The staff maintains that cooperative efforts will more likely ensure a successful control program in the long run than would strict enforcement of the regulations.

Lastly, the regulations proposed by the Division of Soil and Water Districts would establish procedures to prevent certain erosion standards from being exceeded. This does not ensure that water quality standards will be met since there is no clear correlation at the present time between amount of sedimentation and water quality standards.

VII. RELATIONSHIPS WITH OTHER ORGANIZATIONS FOR WATER QUALITY PURPOSES

A. Local

The Soil and Water Conservation Commission acts to set policy, and determine levels of State funding awarded to local districts for projects such as drainage, flood control, and erosion control improvements. For FY 1976, $750,000 was requested for this purpose and included in the budget passed by the Ohio General Assembly. The local match is usually appropriated by the County Commissioners from general funds and must provide for at least 50 percent of the project cost.

The relationships of the districts with local governments and private citizens are varied. Interviews with the Montgomery County SCS agent who acts as one of the staff members of the County Soil and Water Conservation District provided examples of these relationships within the Miami Valley region:

-The District staff assisted the City of Englewood develop its sediment control ordinances by gathering similar ordinances from areas such as Fairfax County, Virginia, and Montgomery County, Maryland.

-The District assisted the Miami Conservancy District (MCD) to delineate the 100-year flood plain area in Newfields, the "new town" near Trotwood, and also works with MCD indirectly through the Montgomery County Park District which operates parks on MCD lands.

-The District provides assistance to villages and townships on ditch and drainage projects in the County when requested to do so.

B. Regional

At the present time, the Division and regional organizations do not have any known relationships.

C. State

State relationships other than the one described earlier between the ODNR and the OEPA include a review relationship with the Ohio Department of Transportation (ODOT). Under this relationship, ODOT submits plans for new construction and relocation to ODNR and the Division for review and recommendation prior to the start of construction. This is done to ensure proper soil management techniques are used during construction.

The Ohio Agricultural Research and Development Center conducts research on methods and management practices to control erosion, drainage, tillage, and land and water use. Results of this research are applied by the Division and the districts to specific conservation projects.

D. Federal

The major relationship with federal agencies is that existing between the SCS and the Division of Soil and Water Districts and the local districts themselves. This relationship, which has existed since the creation of the Commission and the local districts, involves cooperation in the provision of technical assistance services at the local level. The nature

of these services has been referenced in the discussion of local relationships.

Another relationship exists between the Agricultural Stabilization and Conservation Service (ASCS) and the local districts. Under the ASCA programs, farmers can get financial assistance to implement conservation practices.

VIII. FINANCING CAPABILITIES

The work of the districts is financed in a variety of ways, but the major source of funding is the State's matching share. As mentioned above, the State will match up to one-half of the nonfederal portion of the construction cost of the improvement. In FY 1975, the districts received a total of $650,000 which was matched by $930,888 of local funds. The proposed State funding level in FY 1976 is $750,000.

The local match comes from either the proceeds of a tax levied within the ten-mill limitation or from the general fund of the county. Proposed legislation would enable the County Commissioners to levy a tax outside the ten-mill limitation if approved by the electors. Such a levy would be used by the district for "...environmental conservation and water management programs administered by the district either directly or by contract."

OHIO WATER DEVELOPMENT AUTHORITY

I. GEOGRAPHICAL JURISDICTION

State of Ohio

II. BASIS OF AUTHORITY

State legislation, enacted in 1968, created the statewide Ohio Water Development Authority (OWDA) to provide local government and private industry with financial assistance in the construction of water and solid waste pollution abatement facilities. Chapter 6121 of the Ohio Revised Code provides the OWDA with the authority to issue bonds to provide the funds necessary for the construction of these facilities. Although OWDA activities have been restricted primarily to the financing of facilities, Chapter 6121 also provides the authority for the OWDA to directly construct, operate and maintain its own facilities.

Enactment of legislation in 1970 (Chapter 6123 of the Ohio Revised Code) expanded OWDA's financing capability to the area of solid waste treatment facilities. Additional authority, granted in 1974, through amendments of Section 13 of Article VIII of the Ohio Constitution expanded OWDA's ability to finance industrial projects and in particular, industrial landfill, resource recovery, reclamation, or similar solid waste projects.

III. AREAWIDE WATER QUALITY-RELATED FUNCTIONS

A. Facility Financing

The OWDA operates two programs: (1) Local Governmental Agency program (LGA); and (2) the Industrial Program.

(1) LGA Program

Under the LGA, OWDA finances 100 percent of the project cost. Under earlier OWDA-financed projects (i.e., FY 1970 and 1971), federal grants amounted to 30 percent of the eligible costs; the remaining 70 percent was repaid over a ten to forty year period. With the enactment of the Federal Water Pollution Control Act Amendments of 1972 (FWPCAA), and its provisions for 75 percent federal grants, OWDA began providing 75 percent interim financing and 25 percent nongrant financing. Under this arrangement, OWDA finances the 25 percent

portion over a ten to forty year period; and the 75 percent is financed through short-term notes until OWDA is reimbursed by the USEPA. In this case, the local government signs over to OWDA the federal grant. The grant is pledged against the notes which are used to pay short-term costs. The long-term 25 percent is financed through the issuance of bonds.

Under the LGA program, local governmental units can apply for assistance from the OWDA. Local governments are placed in one of two categories under this program -- as local governments eligible for OEPA grants or as local governments not eligible for OEPA grants. Under the new OWDA program initiated the beginning of the year, local governments eligible for grants must have a grant commitment from OEPA before they can receive assistance from OWDA. In the case of local governments eligible for grants, cost of borrowing is 80 basis points (a basis point is defined as 1/100 of a percent; in this case 80 basis points is equal to .8 of a percent) above the Municipal Bond Buyers 20 Bond Index; in the case of those not eligible for grants, the cost is 180 basis points (or 1.8 percent) above the index. The reason for the difference is to discourage those local units of government not eligible for OEPA grants and to ensure that municipal wastewater treatment facilities on the OEPA state priority list are, in fact, given "first priority." Without the extra percentage point as a disincentive to noneligible communities, the ability of OWDA to finance facilities on the OEPA state priority list would be severely limited under its present financing authorization.

In the case in which application for funding assistance is being made by local governments not eligible for federal assistance, OWDA assistance can be used for water supply as well as sewage treatment and related facilities.

(2) Industrial Program

Under the industrial program, OWDA finances waste treatment and solid waste disposal facilities for private industry. In each case, OWDA

will issue a revenue bond for the amount of each industrial project; and the industry repays the project cost over a period of years. The advantage to industry is obviously the lower cost of borrowing; and to Ohio, industrial revenue bonds provide a method of facilitating private investment in pollution abatement facilities at no cost to the taxpayer and at a cost savings to industry.

B. OWDA Direct Operations

As mentioned previously, OWDA has the authority to construct, operate and maintain pollution abatement facilities. Chapter 6121 authorizes the OWDA to exercise this authority when requested to do so by the director of OEPA. In areas which are in violation of treatment standards, OWDA would step in and establish "water facilities service areas", and act as the management agency.

The OWDA can also finance, construct, operate and maintain a facility upon request of local governments.

IV. SIGNIFICANT DIFFERENCES BETWEEN LEGAL AUTHORITY AND ACTUAL OPERATING RESPONSIBILITIES

The OWDA staff does not favor a direct role by the Authority in waste treatment management. However, the agency will utilize, only when necessary, its full authorities to promote regional systems. In areas of the state in which OWDA has assumed management responsibility, it has been able to resolve conflicts over the management of such systems. For example in northeast Ohio, at the request of the French Creek Council of Governments (Lorain County), OWDA is constructing intercepting sewers and a regional wastewater treatment plant. At the request of the Boards of County Commissioners of Licking, Fairfield, and Perry Counties, OWDA is preparing a facilities plan for the Buckeye Lake area in central Ohio.

Although reluctant to utilize its direct operating authority, the ability of the OWDA to do so is important in terms of a 208 plan. OWDA authority to go into an area not in conformance with treatment standards when requested by the director of OEPA could provide an incentive for one or more local governments to cooperate in implementing a regional plan.

Further, OWDA's financing capacity and capability acts as another incentive to local governments developing regional solutions.

According to OEPA staff, OWDA will participate in the review of 208 plans. This review will most likely include consideration of the extent to which regional systems have been proposed, although the OWDA does not appear very willing to utilize its statutory capacity to encourage regional approaches.

V. MAJOR LEGAL AND ADMINISTRATIVE CONSTRAINTS ON FINANCING AND STAFFING

There are several constraints relevant to the operating capability of OWDA. These include:

A. The Bond Market

The OWDA's ability to generate funds for financing the local share of facility construction in the future will depend to a great extent on the future demands for funds by both the private and public sectors. This is a concern expressed by OWDA staff; however, it is difficult to forecast a particular point at which the state will no longer be able or willing to raise funds. Obviously, at some point demand for funds may cause interest rates to exceed the repayment capability of local government borrowers. Interest rates are now rising. Between the State's June 5th offering and the October offering, the interest charge to the State rose from 7.3911 percent to 7.91 percent.

The OWDA does not, however, have any legally imposed limit on interest rates which it can pay.

B. Level of Authorization

As noted, the OWDA is currently operating under a five-year, $500 million authorization. This is not, however, a constraint because it can be changed by a majority vote of the seven members of the Authority.

C. Requirements for Local Revenue Sources

The OWDA's requirement that local governments using its financing services have existing revenue sources to amortize a loan is an obvious constraint on the extent to which this financing can be used by small

communities may be forced to cooperate in regionalized operations. Arrangements of this sort might be initiated by the counties themselves. Another alternative may be for a county to establish a sewer district and contract with the counties for waste treatment services.

VI. RELATIONSHIPS WITH OTHER ORGANIZATIONS

A. Local

The OWDA, as indicated, acts as a financing mechanism to ensure local governments can meet enforcement standards established by OEPA. At the present time, OWDA has $1.1 billion worth of projects in applications. Of that total, $600 million of projects have been financed.

B. Regional

In the Miami Valley region, OWDA has assisted in the financing of several Miami Conservancy District projects, including the Franklin and Clear Creek plants.

C. State

The OWDA has an obvious relationship with OEPA, although not pursuant to statute. OWDA and OEPA cooperate in attempting to meet state waste treatment facility priorities. OEPA, in a formal relationship, review grant applications made by OWDA in those cases in which OWDA is the management agency.

D. Federal

The OWDA relates only to USEPA. This is based primarily on the funding relationship between the two agencies.

VII. FINANCING CAPABILITIES

The OWDA's original "Pollution Abatement Program" provided $100 million in State appropriations for the purpose of making loans under the Local Government Agency Program. These funds were supplemented by $150 million in revenue bonds and approximately $350 million in federal grants. Under this program which expired on December 31, 1974, the Authority received a total of 464 applications from local communities. Of that number, 222 projects were

already complete or under construction as of December 31, 1974. The remaining "...242 applications are on file with the Authority for possible financial assistance..." under the revised program which is referred to as the "Clean Water Program." This program, initiated the first of this year, has authority to issue a total of $500 million in revenue bonds over the next five years.

OHIO DEPARTMENT OF HEALTH

I. GEOGRAPHIC JURISDICTION

The Ohio Department of Health's jurisdiction is statewide; however, for many programs policy is set by the Public Health Council (a seven-member State Board of Health) and carried out by local health departments as well as by the Department itself.

II. BASIS OF AUTHORITY

The Ohio Department of Health is required, pursuant to Section 3701.22, to maintain laboratories for the examination of public water supplies. "Public water supplies" are defined as either a system serving forty or more full-time residents or "any other system which provides water for public consumption exclusive of individual water supply systems", according to OEPA in an accompanying sheet to its water well standards. In a more recent definition, according to a representative from the Office of Public Water Supply, OEPA, a public water supply system is any system serving twenty-five or more persons for at least three months a year, or a system with at least fifteen connections. Ohio Department of Health staff stated that the "any other system" includes facilities which serve the public, migrant labor camps, bathing areas, schools, etc.

The Department, under the same Section, is required to report to the director of OEPA and the public each year on the condition of public water supplies.

Further, the Department and, specifically, the Bureau of Environmental Health, also become involved in questions of water supply standards because the Department participates in carrying out policies established by the Public Health Council (under Sections 3701.33 and .34 of the Ohio Revised Code) with regard to ensuring potable water supplies in food service, vending and milk producing establishments.

III. AREAWIDE WATER QUALITY-RELATED FUNCTIONS

Since the establishment of the OEPA and the transfer

of those functions under Chapter 6111 of the Ohio Revised Code from the Ohio Department of Health to OEPA, the Ohio Department of Health's involvement in water quality and related areas has been minimal. However, a discussion of those functions for which it is still responsible and those for which it shares responsibility with local health departments and OEPA will be useful.

A. Water Supply

Sections 6111.13, .14, .15 and .16 give jurisdiction over public water supplies to OEPA.

As implied in Section II, the area of "water supply" is categorized according to whether or not it is public or private, and further, within the category of public water supply, according to whether it serves consumers in their homes, or whether it serves facilities which in turn serve water to the public or use water which may affect public health.

Using these categorizations, responsibilities for administering programs is divided as follows:

(1) Public Water Supplies

The administration of programs to ensure that public water supplies meet applicable standards is the statutory responsibility of OEPA. If the water comes from groundwater supplies, the manner in which it is retrieved is spelled out in EP-7 and EP-35. These regulations establish standards to prevent groundwater contamination and provide that, unless a well serves less than four residential units, its plans must be approved by the OEPA in accordance with 6111.14 and HE-33 of the OEPA regulations.

At the present time, however, local health departments participate in sampling and otherwise monitoring many public water supply systems. The results are reported to OEPA district offices and through the districts to the State if action is necessary to correct a situation in which water supply or health standards are not being met.

Where the system serves less than twenty-five persons or has less than fifteen connections,

the monitoring and enforcement of pertinent standards is the primary responsibility of local health departments.

(2) "Other" Water Supply Systems

In cases in which food service establishments as well as vending and milk producing establishments are on a public water system, OEPA retains responsibility for ensuring a potable water supply, while local health departments ensure health standards are met. Whenever such establishments have their own systems, the Ohio Department of Health is responsible for setting standards, and monitoring and enforcing those standards. In most cases, this responsibility is mandated to local health departments. However, if the local department is not adequately administering the program, the State can assume responsibility for the program. This occurs on the average of three or four times a year.

(3) Private Water Supply Systems

According to OEPA Office of Public Water Supply, local health departments have complete responsibility for monitoring private water supply systems and ensuring water quality standards are met. The Ohio Department of Health is involved to the extent that it did prepare a pamphlet entitled, "Recommended Uniform Water Supply Guideline" in 1971. As its title indicates, it is a model set of regulations defining and regulating the design, construction, location and installation of individual systems.

B. Sewage Treatment

The delineation of responsibilities between OEPA and the state and local health departments in sewage treatment is similar to that in water supply.

Under Chapter 6111, OEPA has the responsibility for setting standards, and ensuring all pertinent standards and regulations for systems serving more than three dwellings are met.

The Ohio Department of Health has responsibility for private sewage treatment systems serving one, two, or three family dwellings. Regulations covering such

systems became effective in July, 1974, and are contained in HE 29.01-29.20. These regulations establish minimum standards. While the State does survey local health departments, local health departments are responsible for monitoring and enforcing either State standards or their own (which must be at least as stringent as those of the State). The State, in turn, periodically surveys local health departments to ensure applicable regulations are being enforced.

C. Plumbing Inspection

The section of the Ohio Department of Health with responsibility for plumbing inspection is the Plumbing Unit, Bureau of Environmental Health. Among its functions is the certification of local health departments to carry out plumbing inspections. If local health departments are not certified, the plumbing inspection responsibility is the State's. In the Miami Valley region, however, all health departments are certified.

Certified health departments must adopt, at a minimum, the Ohio Plumbing Code (Chapter BB-51 of the Ohio Building Code) and carry out inspections in accordance with the Code. Although the State does not have an active monitoring role, it will take action against those certified departments against which complaints are brought. For example, Cincinnati is currently on probation. There are no instances in which this has occurred in the Miami Valley region.

There have been instances in which there is ambiguity in the inspection of plumbing between structures and sanitary sewers; however, it is the State policy that in areas in which it has jurisdiction, its responsibility ends three feet outside the building. Inspection then becomes the responsibility of the sanitary sewer system agency.

The distinction between health department and sanitary county engineer responsibilities may be vague at the local levels; however, the Ohio Department of Health has no responsibility to define the respective roles, particularly where certified local health departments exist.

IV. SIGNIFICANT DIFFERENCES BETWEEN LEGAL AUTHORITY AND ACTUAL OPERATING RESPONSIBILITIES

The Ohio Department of Health and local health departments appear to have greater monitoring responsibilities in the area of public water supply systems than statutorily assigned. This difference is due to staffing constraints within OEPA. As OEPA begins to implement the Safe Drinking Water Act, it expects to enact regulations which would transfer responsibility for monitoring water supply from local health departments to the purveyor (or supplier).

V. MAJOR LEGAL AND ADMINISTRATIVE CONSTRAINTS ON FINANCING AND STAFFING

As noted previously, the state-level Public Health Council establishes policy and regulations which are carried out by both local health departments and the Ohio Department of Health. In programs for which the Ohio Department of Health does have some responsibility, such as water supply and sewage treatment, local health departments have primary responsibility for enforcing regulations.

However, according to Ohio Department of Health staff, because of budget limitations the State does not have the capability to ensure that the local health departments are enforcing State regulations.

VI. RELATIONSHIPS WITH OTHER WATER RESOURCE ORGANIZATIONS

The Ohio Department of Health's primary relationships, those between itself and OEPA and local health departments, have been explained in previous sections.

VII. FINANCIAL CAPABILITIES

While no specific financial information was obtained, it was noted above that the Department is constrained in its ability to oversee the activities of local health departments due to budget limitations.

DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

This synopsis deals with the general and water resources functions of the Ohio Department of Economic and Community Development (DECD) and an adjunct to DECD with important water resource functions, the Ohio Water and Sewer Rotary Commission.

I. GEOGRAPHICAL JURISDICTION

State of Ohio

II. BASIS OF AUTHORITY

DECD

The Department has been given broad statutory authority in the areas of statewide planning and coordination and economic development. This broad statutory authority stems primarily from Chapter 122 of the Ohio Revised Code and includes the following areas of responsibility to:

(1) Maintain a continuing evaluation of the sources available for the retention, development, or expansion of industrial and commercial facilities in this state through both public and private agencies;

(2) Assist public and private agencies in obtaining information necessary to evaluate the desirability of the retention, construction, or expansion of industrial and commercial facilities in the state;

(3) Facilitate contracts between community improvement corporations organized under Chapter 1724 of the Ohio Revised Code or Ohio development corporations organized under Chapter 1726 of the Ohio Revised Code and industrial and commercial concerns seeking to locate or expand in Ohio;

(4) Upon request, consult with public agencies or authorities in the preparation of studies of human and economic needs or advantages relating to economic and community development;

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(5) Encourage, promote, and assist trade and commerce between this state and foreign nations;

(6) Promote and encourage persons to visit and travel within this state;

(7) Provide technical assistance to sponsors, homeowners, private developers, contractors, and other appropriate persons on matters relating to housing needs and the development, construction, financing, operation, management, and evaluation of housing developments.

(8) Assemble, analyze, and make available to governmental agencies and the public, information relative to the human, natural, and economic resources and economic needs of the state;

(9) Prepare and maintain, in cooperation with departments and agencies of the state, comprehensive plans and recommendations for promotion of more desirable patterns of growth and development of the resources of the state;

(10) Assist in the coordination of development plans of federal, state and local governments, regional and local planning authorities, and private agencies;

(11) Provide planning assistance to state departments and agencies, political subdivisions, county planning commissions, regional planning units, councils of government, and local governments of this state. Such planning assistance may be rendered with respect to surveys, land use studies, urban renewal plans, technical services and other planning work. In so doing, the department may contract with municipal subdivisions with regional planning commissions, and with qualified persons, firms and agencies;

(12) Cooperate with federal agencies and authorities of other states in the solution of community and development problems which cross state lines;

(13) Recommend guidelines for the development and management of new communities.

Water and Sewer Rotary Commission

Section 1525.11 of the ORC empowers the Commission to administer the State Water and Sewer Rotary Fund. The Rotary Fund is used for advances to Boards of County Commissioners who have deferred assessments on agricultural land, these assessments begin levied for the cost of extension of water and sewer lines. When the deferred assessments are collected by the Boards, the money is paid back to the Rotary Fund.

III. WATER QUALITY RELATED FUNCTIONS

DECD

The Department input with respect to water quality management is minimal. It stems primarily from DECD's authority to assist political subdivisions and local and regional planning commissions and to distribute HUD "701" comprehensive planning funds.

The Department provides technical assistance to communities in the area of economic development. As a consequence of this assistance, DECD staff may provide communities with technical information on the provision of sewers and on other matters relating to environmental quality.

In allocating HUD "701" monies, the DECD can provide communities and planning agencies with funds that can be used for land use planning as it relates to water quality.

Water and Sewer Rotary Commission

The Commission assists in the provision of sewer and water lines in agricultural areas where real estate development, particularly of an industrial or commercial nature, is taking place. Boards of County Commissioners are allowed, by statute, to defer assessments on agricultural land through which sewer and/or water lines are being extended, thereby not forcing farmers to sell or develop their land prematurely as a result of the increased taxes. However, the deferment of these assessments hinders the financing of sewer and water projects on the part of the counties. The Water and Sewer Rotary Commission alleviates this financial burden through the administration of the Water and Sewer Rotary Fund.

It advances money to Boards of County Commissioners to make up for monies lost through deferred assessments. When a farmer sells or develops his land and the deferred assessments become due, they revert back to the Rotary Fund.

IV. SIGNIFICANT DIFFERENCES BETWEEN STATUTORY AND CONSTITUTIONAL AUTHORITY AND ACTUAL OPERATING RESPONSIBILITIES

The broad statutory authority granted to DECD, as discussed in Section I of this synopsis, has not been used to its fullest extent. This stems in large part from the very breadth and vagueness of the authority, but also from the fact that the Ohio General Assembly, the new state executive administration, and indeed DECD itself have not fully defined the specific roles of a state planning agency on a program-by-program basis. Thus, funding for DECD has not been commensurate with its broad range of statutory responsibilities.

OHIO POWER SITING COMMISSION (OPSC)

I. GEOGRAPHICAL JURISDICTION

State of Ohio

II. BASIS OF AUTHORITY

The OPSC was established in October, 1974, under Section 4906.02 of the Ohio Revised Code. Pursuant to S.B. 285 (the same bill creating the OEPA) the Commission's primary purpose is to regulate the construction of major utility facilities. In this case, "major utility facility" is defined in the Ohio Revised Code as an electric generating plant capable of operation at a capacity of 50 megawatts or more; electric transmission lines and associated facilities of a design capacity of 125 KV or more; and gas or natural gas transmission lines and associated facilities designed for transporting gas or natural gas at pressures in excess of 125 pounds per square inch.

III. AREAWIDE WATER QUALITY-RELATED FUNCTIONS

Utilities not under the jurisdiction of the OPSC are under the jurisdiction of units of local government and applicable local laws and regulations.

Among the Commission's duties is the responsibility for issuing certificates of environmental compatability and public need to persons intending to construct a major utility facility.

The Commission shall not grant a certificate for the construction, operation and maintenance of a major utility facility unless it finds and determines a need for the facility and the nature of the probable environmental impact of the facility. Unless it finds that the facility represents the minimum environmental impact under all pertinent considerations; and unless it is assumed that the facility will comply with Chapters 3704 (Air Pollution Control), 3734 (Solid Waste Disposal), and 6111 (Water Pollution Control) of the Ohio Revised Code, a certificate is not granted.

While the Commission is responsible for the review and approval of utilities prior to their construction, the OEPA assumes responsibility for the monitoring and

enforcement of all applicable laws, regulations, and standards once the facility is under construction and in operation.

For example, the certificate application required of utility owners must include data and information on "aquatic discharges from the construction and operation of the facility to show conformity with all state and federal water discharge and ambient water quality standards and regulations applicable to the proposed facility."

Another water quality and specifically 208-related function of the Commission concerns ensuring that utilities meet Section 4906.15, which requires that a ten-year forecast of power needs be prepared. The forecasts must be updated each year. Each report must include information on projected loads, resources and prospective sites, and must be made available upon request to "municipal corporations and governmental agencies charged with the duty of protecting the environment or of planning land use."

A review of current ten-year forecasts indicated that no major facilities are currently being proposed for the Miami Valley region.

IV. SIGNIFICANT DIFFERENCES BETWEEN LEGAL AUTHORITY AND ACTUAL OPERATING RESPONSIBILITIES

The OPSC is still in the process of putting together a staff. As a result, it is too early to assess its operating functions and make a determination as to differences between statutory authority and operating responsibility.

As noted above, the certificate granted by the Commission covers the construction period and initial operating period of the facility (two years). However, because the statutory language is unclear, a procedure has not been established to ensure that the applicable laws and regulations are being adhereed to during the construction period. According to the Commission's public information officer, the responsibility will most likely lie with both OEPA and OPSC. Subsequent to the construction and initial operating period, the monitoring and enforcement of applicable law is the responsibility of the OEPA.

V. MAJOR LEGAL AND ADMINISTRATIVE CONSTRAINTS ON FINANCING AND STAFFING

No apparent constraints at the present time.

VI. RELATIONSHIP WITH OTHER WATER RESOURCE ORGANIZATIONS

There is an interlocking formal relationship between the OPSC and the OEPA through the director of OEPA who serves as chairman of the Commission. That formal relationship also continues through to the review of applications for certificates. This review must include assurance that all applicable environmental laws and regulations which are administered by the OEPA are met. A further relationship will exist when monitoring and enforcement powers during construction are defined.

Other institutionalized relationships exist between the OPSC and the Ohio Department of Health, DECD, Public Utilities Commission of Ohio (PUCO) because the heads of each of these agencies serve on the Commission. Statutorily, only the Commission has the authority to authorize the construction of a major utility facility. Municipal regulations may supersede State regulations only if those regulations do not apply to the location and design of the facility, and do not pertain to pollution controls and standards affecting the operation of the facility. In other words, the OPSC authority is very broad.

Since no certificates have been issued, it is difficult to define these relationships any further than what is contained in the enabling legislation and regulations.

VII. FINANCIAL CAPABILITY

No budgetary data was obtained; however, the usefulness of budgetary data appears to be minimal.

DIVISION OF PLANT INDUSTRY

OHIO DEPARTMENT OF AGRICULTURE (ODA)

I. GEOGRAPHIC JURISDICTION

State of Ohio

II. BASIS OF AUTHORITY

Chapter 921 of the Ohio Revised Code.

III. AREAWIDE WATER QUALITY - RELATED FUNCTIONS

The Division's restrictions on the use of pesticides and herbicides are a function which can contribute to nonpoint pollution abatement and hence to areawide water quality. The Division restricts the use of specific pesticides and herbicides through a licensing and permitting system. Commercial and public pesticide applicators and operators must obtain licenses for various classifications of pesticides. According to Ohio Department of Agriculture regulations, the applicant must "show upon examination that he possesses adequate knowledge concerning the proper use and application of pesticides in the classification for which he has applied." Licenses must be obtained directly from the Ohio Department of Agriculture.

The rule of "restricted use" pesticides is regulated through permits issued by ODA or the municipality in which the permits are sold. Permits must be obtained by both dealers and private purchasers.

In addition to licensing and permitting, the Division of Plant Industry investigates consumer complaints regarding the misuse of pesticides and participates in the investigation of "pesticide incidents", such as fish kills, resulting from pesticide runoff.

IV. SIGNIFICANT DIFFERENCES BETWEEN LEGAL AUTHORITY AND ACTUAL OPERATING RESPONSIBILITIES

No apparent differences.

V. MAJOR LEGAL AND ADMINISTRATIVE CONSTRAINTS ON FINANCING AND STAFFING

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The Division is constrained in terms of professional personnel it can hire. Its field staff for the entire state of Ohio is limited to three persons. The director expects to add three more field staff but cannot anticipate when adequate funding will be available to hire new personnel.

VI. RELATIONSHIPS WITH OTHER WATER RESOURCE ORGANIZATIONS

On the state level, the Division cooperates with the ODNR and the OEPA in the investigation of pesticide incidents.

On the local level, the Division has contacts with municipalities, the pesticide industry and private citizens through its licensing and permitting system.

VII. FINANCIAL CAPABILITY

No budgetary data was obtained, but as indicated in Section V, funding for the Division is limited. Further, the data may be of little use to the analysis.

OHIO DISTRICT OF THE SOIL CONSERVATION SERVICE (SCS)
U.S. DEPARTMENT OF AGRICULTURE (USDA)

I. GEOGRAPHIC JURISDICTION

State of Ohio

II. BASIS OF AUTHORITY

The SCS was created as an agency of the U.S. Department of Agriculture. It derives its authority through the federal programs which it administers.

III. AREAWIDE WATER QUALITY-RELATED FUNCTIONS

Most of the functions of SCS which impact on water quality are of a technical assistance nature.

The SCS plays a role in the control of agriculture runoff by assisting farmers engaged in soil and water conservation practices and land treatment measures designed to alleviate erosion. Assistance is rendered by SCS technicians who serve on the staffs of the eighty-eight soil and water conservation districts located within Ohio.

Under the Watershed Protection and Flood Prevention Act (P.L. 83-566), funded by the Farmers Home Administration, the SCS offers technical assistance in the construction of small dams and other flood protection measures. These structures provide additional benefits, including water storage and water recreational facilities.

The SCS also provides technical assistance to state agencies in state-sponsored and 303(e) river basin studies. Over the past year, the Muskingum, Southwest Ohio and Miami River Basins have been studied. SCS provides data on hydrology, soil types and slopes, drainage and soil wetness and soil loss through erosion.

The SCS is coordinating work with the ODNR on a USDA Type IV River Basin Study for the Mill Creek and the Great and Little Miami Rivers. This study is to be completed by December 31, 1976. Regional planning agencies in these river basins have been

asked to participate and share information being gathered under their 208 wastewater management programs.

The SCS has a field staff of 284 working throughout the state. One staff member worked temporarily at the Ohio-Kentucky-Indiana (OKI) Regional Planning Commission. As noted in the report, A Review of Federal Programs Impacting Regional Water Quality Management there are various ways to arrange such a working relationship, either formally (through contracts or grants) or on an ad hoc basis.

IV. SIGNIFICANT DIFFERENCES BETWEEN LEGAL AUTHORITY AND ACTUAL OPERATING RESPONSIBILITIES

No apparent differences.

V. MAJOR LEGAL AND ADMINISTRATIVE CONSTRAINTS ON FINANCING AND STAFFING

No apparent constraints.

VI. RELATIONSHIPS WITH OTHER ORGANIZATIONS

On the state level SCS participates with OEPA and the ODNR in State-sponsored and 303(e) river basin studies.

On the local level SCS works with soil and water conservation districts in providing technical assistance to farmers and landowners.

VII. FUNDING CAPABILITY

No data available.

OHIO OFFICE OF THE FARMERS HOME ADMINISTRATION (FmHA)
U.S. DEPARTMENT OF AGRICULTURE (USDA)

I. GEOGRAPHICAL JURISDICTION

State of Ohio

II. BASIS OF AUTHORITY

The FmHa was created as a federal agency under USDA. It derives its authority via the federal programs it administers.

III. AREAWIDE WATER QUALITY-RELATED FUNCTIONS

The FmHA's primary responsibility is to provide loans and grants to eligible individuals or groups of rural landowners. Many of its loans have a potential impact on water quality.

The FmHA makes Resource Conservation and Development (RCD) loans to public agencies and nonprofit corporations in areas that have been designated by the U.S. Secretary of Agriculture as Resource Conservation Development Project Areas. Loans may be used for such purposes as:

(1) Water facilities, including the construction or improvement of works of flood prevention, erosion control, irrigation, drainage of agricultural land, soil conservation, and water storage for community supply and pollution abatement.

(2) Water resource improvements such as reservoirs, lake level control structures, stream or channel rectification, acquisition of lands, easements, and fees for legal and technical services.

(3) Public water-based recreational developments and public water-based fish and wildlife developments to help public entities obtain the local share of costs for such developments for which the Soil Conservation Service is providing RCD technical or financial assistance.

(4) Shift in land use, such as conversion to pasture, forestry, wildlife areas, grazing, parks,

greenbelts and other open spaces that will serve rural communities.

(5) Facilities and equipment including garbage trucks, sanitary landfills and incinerators to collect, treat and dispose of solid wastes.

Local organizations can obtain watershed loans or advances to carry out plans to protect, develop and utilize the land and water resources in small watersheds.

The FmHA also makes Soil and Water (SW) loans, accompanied by technical management assistance, to owners or operators of farms and ranches including partnerships and corporations to assist them in developing, conserving, and making proper use of their land and water resources.

The SW loans may be used to drill wells and otherwise improve water supply systems for irrigation, home use, and livestock; purchase pumps, sprinkler systems, and other irrigation equipment; acquire a water supply or water right; purchase water stock or membership in an incorporated water users' association; construct and repair ponds and tanks, ditches, and canals for irrigation; dig ditches and install tile to drain farmland; develop ponds and water control structures for the production of fish under controlled conditions.

These loans may also be used to level land; carry out basic land treatment practices including liming, fertilizing, and seeding; subsoil or sod land; establishing permanent pastures and farm forests; establish approved forestry practices on a farm such as pest control, thinning, and fire protection.

Funds may also be used to build dikes, terraces, waterways, and other erosion control structures.

In addition, loan funds may be used to obtain plans and pay fees for legal, engineering, and other technical services.

Finally, within the area of water quality, FmHa is authorized to make loans to develop community facilities for public use in rural areas and towns of up to 10,000 population. Priority is given to

municipal borrowers in communities with less than 5,500 population to restore a deteriorating water supply; improve, enlarge or modify a water system or an inadequate sewer system; or to merge facilities for more efficient management and economical service.

The community facilities loans are currently being used, for the most part, to enable rural communities to provide the 25 percent matching funds required for the construction of Section 201 waste treatment facilities. The loans can cover the entire 25 percent match plus non-eligible costs, such as capitalized interest and land costs. The interest rate on all FmHA loans is a straight five percent. Communities which cannot afford to float bonds for Section 201 facilities can take advantage of low interest financing from FmHA.

IV. SIGNIFICANT DIFFERENCES BETWEEN LEGAL AUTHORITY AND ACTUAL OPERATING RESPONSIBILITIES

No apparent differences.

V. MAJOR LEGAL AND ADMINISTRATIVE CONSTRAINTS ON FINANCING AND STAFFING

No apparent constraints.

VI. RELATIONSHIPS WITH OTHER WATER RESOURCE ORGANIZATIONS

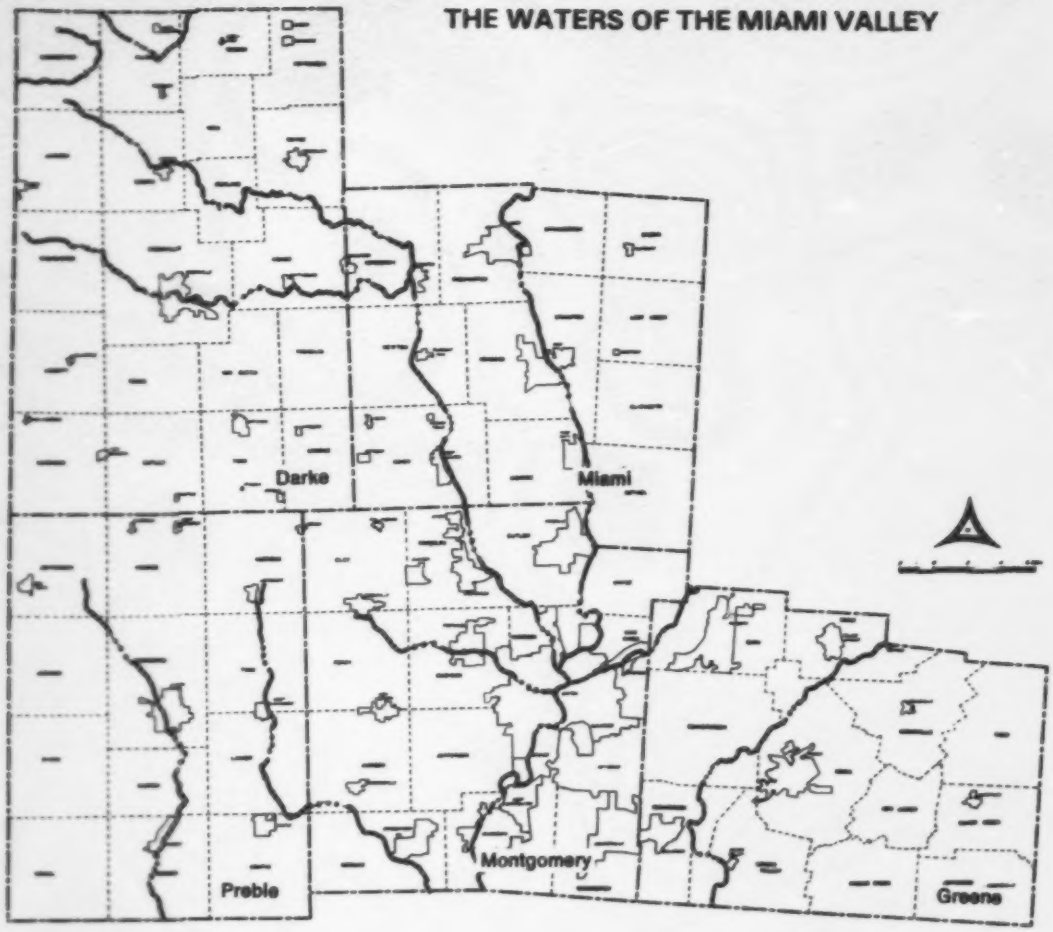
FmHA has contact with local jurisdictions and public groups at the local level.

At the state level FmHA works closely with the OEPA in determining the OEPA state priority list for Section 201 facilities construction funds.

VII. FINANCIAL CAPABILITY

The Ohio district of FmHA is allocated funds by the federal office. Allocation is based on a formula which takes into account population, diversity, needs, and funding in previous years. Over the past several years the Ohio office has ranked third or fourth in the nation in total dollar allocations. For FY 75 it received $21 million for water and sewer and community facility loans and grants.

THE WATERS OF THE MIAMI VALLEY



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The MIAMI VALLEY REGIONAL PLANNING COMMISSION

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What is MVRPC?

The Miami Valley Regional Planning Commission (MVRPC) is a voluntary organization created by local governments in 1964 to assist officials and citizens in better understanding common problems and various corrective courses of action. Of high concern, also, is attempting to maximize the use of our natural, fiscal and human resources. Direct service and technical assistance is provided upon request in numerous functional areas. Typical of such services are: data and information related to our Region's goals, policies and priorities.

The members of the Commission are local elected officials; therefore, directly responsible and accountable to the citizens of the region and their various units of government.

Annually, the Commission selects specific issues for investigation and evaluation. After selection, the MVRPC follows procedures allowing for participation, review and comment by representatives of all points of view, all affected levels of government, technical experts, and interested groups and individuals. The Commission then, at public meetings, debates each issue and formulates its position. Commission findings and recommendations are published for consideration by the jurisdictions making up the Commission. Implementation of recommendations only occurs when local units of government officially take action.

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